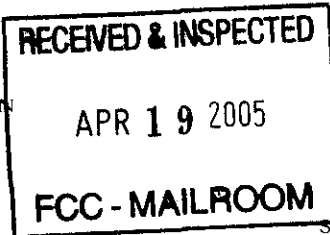




THOMAS L. WELCH
CHAIRMAN

STATE OF MAINE
PUBLIC UTILITIES COMMISSION
242 STATE STREET
18 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0018



STEPHEN L. DIAMOND
SHARON M. REISHUS
COMMISSIONERS

DOCKET FILE COPY ORIGINAL

April 11, 2005

Marlene H. Dortch
Office of the Secretary
Federal Comm. Commission
The Portals, 445 12th Street, SW
Room TW-A325
Washington, D.C. 20554

Re: CC Docket No. 99-200; DA No. 05-663

Dear Ms. Dortch:

Enclosed please find a copy of the Comments of the Maine Public Utilities Commission which were filed today electronically with the Commission. If you have any questions, I may be reached at (207) 287-1392.

Sincerely,

Trina M. Bragdon
Staff Attorney

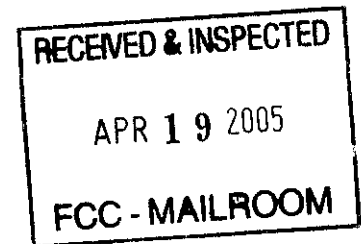
cc: Service List
Sheryl Todd (3 copies)
Qualex International (disk)

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**Before the
Federal Communications Commission
Washington, D.C. 20554**



In the Matter of)
)
RNK, Inc., Nuvio Corporation, Unipoint)
Enhanced Services, Dialpad)
Communications, Inc., Vonage Holdings)
And Voex, Inc. Petitions for Limited)
Waiver of Section 52.15(g)(2)(i) of the)
Commission's Rules Regarding Access)
to Numbering Resources)

CC Docket No. 99-200
DA No. 05-663

COMMENTS OF THE MAINE PUBLIC UTILITIES COMMISSION

The Maine Public Utilities Commission (MPUC) submits these Comments regarding Petitions of RNK, Inc., Nuvio Corporation, Unipoint Enhanced Services, Dialpad Communications, Inc., Vonage Holdings and Voex, Inc. (collectively Petitioners) for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Access to Numbering Resources.

Over the past six years, the MPUC has worked very hard, in conjunction with federal regulators and those in other states, as well as with the industry, to ensure the efficient use and conservation of numbering resources. Maine was one of the first states in the nation to implement thousand block pooling and to apply facilities readiness and fill-rate guidelines to applications for new numbering resources. Our efforts have paid off: in 1998 the North American Numbering Plan Administrator (NANPA) informed us that Maine would need a new area code by June 2000; today NANPA conservatively estimates that we will not need a new area code until 2012. Our success, in large part, rests on our diligent monitoring of number resource applications by all types of carriers and enforcement of our facilities readiness requirements, i.e.,

that the carrier be certified for the particular rate center where it seeks resources and that it be able to provide proof of either facilities in the rate center or of an actual customer in that rate center that will be served through the carrier's facilities.

Petitioners propose that they be given a waiver similar to that given to SBC, though several petitioners (VoEX, Dialpad, PointOne) ask that they be given additional flexibility in how they demonstrate facilities readiness, several (Vonage, Dialpad) do not specifically state that it will comply with state numbering requirements, and one (Nuvio) explicitly repudiates the limitations concerning geographic association of numbers with a particular customer.

Telephone numbers are a precious public resource requiring continued stewardship by regulators, the industry, and consumers. Area code exhaust has cost consumers and businesses millions, if not billions, of dollars over the past ten years. While we do not seek to impede the development of emerging technologies and applications such as VOIP, we firmly believe that if those technologies and applications require the use of a scarce public resource, they must be subject to the same conservation requirements that other users must follow. Granting Petitioners' requested waivers, without conditioning them upon compliance with state oversight and federal reporting, porting, and pooling requirements could undo much of the progress that has been made over the past few years.

Thus, we urge the Commission to move expeditiously to establish industry-wide rules for VOIP providers' use of numbering resources, rather than continue to provide individual waivers. Clarity and uniformity will benefit all interested parties. Second, we asked that the Commission condition Petitioners' waivers in the same way it conditioned

SBC's waiver and that it add an additional condition. Specifically, we ask that the Commission require the Petitioners, who for the most part are not state-certified carriers, to provide the relevant state commission with both regulatory and numbering contacts (name, phone number, and e-mail) at the time they first request numbering resources in a particular state. This condition will ensure that state commissions are both aware of the provider's presence in the state and able to contact the carrier.

We also bring to the Commission's attention the continuing problem of VOIP providers failing to follow Commission's requirements regarding geographic portability, i.e. assigning numbers to customers located outside the rate center. One need not go any further than to the Home Page of Petitioner Vonage to learn that VOIP providers currently offer phone numbers from State X to consumers located in State Y or Country Z. (See http://www.vonage.com/no_flash/index.php advertising the availability of out-of-state numbers.) Similar problems arose several years ago when companies such as J-Fax offered fax numbers in areas around the country. In order to provide its service, J-Fax would obtain large quantities of numbers from CLECs operating in a particular area. These unforecasted demands caused a number of areas codes around the country to enter jeopardy status prematurely. Nobody will benefit from a repeat of these problems with VOIP providers. Thus, the Commission should explicitly condition any and waiver on following current geographic porting limitations.

Further, with regard to several Petitioners' requested or flexibility in showing facilities readiness, we urge the Commission to be very cautious. Enforcement of facilities readiness criteria ensures that numbering resources are not hoarded, requested prematurely, or diverted to consumers outside the rate center. It also

ensures that the appropriate interconnection/compensation arrangements have been made between providers and underlying carriers. State commissions should continue to have authority to enforce facilities readiness requirements which, at a minimum, should include a requirement that there be a customer in the specific location where the numbers have been requested.

The Commission should not underestimate the impact of state commission oversight of the numbering resource allocation process. Focusing on reclamation statistics only tells part of the story – the bigger impact is felt (but not seen) when state commissions spot an issue before an assignment is made. This happens on a regular basis even in a state such as Maine, which has a relatively low demand for numbers. We regularly notice situations where a carrier's forecasted demand is drastically higher than its historical demand. When we ask the company to explain the discrepancy, we usually discover that a new employee has not taken the appropriate steps to translate raw marketing forecasts into realistic numbering forecasts or that the employee did not understand the FCC's numbering rules. Almost always, the company withdraws the original request and submits an application for one block, resulting in thousands of saved numbers. Thus, we urge the Commission to explicitly condition any waiver on the provider's compliance and cooperation with state facilities requirements and state oversight.

Finally, allowing VOIP providers direct access to numbers in rural areas that do not have pooling will result in a huge waste of numbering resources. In Maine, none of the areas served by independent telephone companies participate in pooling. While the independents account for only 15% of the lines in the state, they account for 45% of the

rate centers. If a VOIP provider decided it wanted numbers in all of the independents' rate centers, the 207 area code would be close to exhaust. If the VOIP provider did not participate in pooling and requested full NXXs in all Maine rate centers, our area code would be completely exhausted. Clearly, neither the industry nor consumers would benefit from such a scenario and regulators (both federal and state) should take all necessary steps to ensure the efficient use of numbering resources so that they continue to be available to all providers. Thus, the Commission should limit any waiver to pooling areas and require that the provider be pooling and porting capable before it obtains any numbers.

New technologies hold the promise of lower prices. It would be ironic, however, if the realization of that promise required consumers to incur significant, unnecessary costs as a result of premature code exhaust. Moreover, some of those costs would fall on consumers who cannot or do not utilize the new technologies, and for them, the result would not just be ironic, it would be downright unfair.

For the reasons discussed above, we respectfully request that the Commission explicitly condition any waiver upon compliance with state facilities readiness

requirements and participation in number portability, thousand block pooling, and all other relevant number conservation measures.

Respectfully,

MAINE PUBLIC UTILITIES COMMISSION

A handwritten signature in cursive script, reading "Trina M. Bragdon", written over a horizontal line.

Trina M. Bragdon, Staff Attorney
Maine Public Utilities Commission
242 State Street
Augusta, ME 04333

Dated: April 11, 2005

CERTIFICATE OF SERVICE

I, Trina M. Bragdon, certify that these Comments of the Maine Public Utilities Commission were filed electronically with the Federal Communications Commission and served via first-class mail to the persons on the attached service list on this date.

A handwritten signature in black ink, reading "Trina M Bragdon", with a long horizontal flourish extending to the right.

Trina M. Bragdon

Dated: April 11, 2005

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